

1 SHELLEY D. KROHN
E-mail: Shelley.TrusteeKrohn@7trustee.net
2 228 South 4th Street, #300
Las Vegas, Nevada 89101
3 Telephone: (702) 421-2210
Facsimile (702) 366-1939
4

5 UNITED STATES BANKRUPTCY COURT

6 DISTRICT OF NEVADA

7 *****

8 In re:) CASE NO. BK-S-13-17326-BTB
9 ALAN DAEL CASTANEDA,) CHAPTER 7
10) Date: March 6, 2014
Debtor.) Time: 11:00 am
11)

12 MOTION TO COMPEL TURNOVER

13 Shelley Krohn, duly appointed Chapter 7 Trustee in the above-
14 referenced proceeding, hereby moves this court for an order
15 compelling the turnover of contact information for the Debtor's
16 mother, or, in the alternative, the sum of \$7,000.00 which was paid
17 to the Debtor's mother in the 12 months prior to the Debtor filing
18 bankruptcy.

19 This Motion is made and based upon the accompanying Memorandum
20 of Points and Authorities, the papers on file herein and any oral
21 argument that the Court may entertain at the time of any hearing on
22 this motion.

23 MEMORANDUM OF POINTS AND AUTHORITIES

24 I.

25 FACTUAL BACKGROUND

26 1. This case was commenced by the filing of a petition under
27 Chapter 7 of the Bankruptcy Code on 08/23/2013.

28 2. At the §341 meeting held on October 9, 2013, the Debtor

1 testified that he paid his mother \$7,000.00 in the 12 months prior
2 to the filing of his bankruptcy case.

3 3. Per §547 and §548 of the Bankruptcy Code, this payment is
4 considered a preference and/or fraudulent transfer and is property
5 of the bankruptcy estate.

6 4. The Trustee has contacted the Debtor's attorney via phone,
7 email, and letter, no less than three times, requesting contact
8 information for the Debtor's mother in order to pursue the
9 preference/fraudulent transfer action, and has received no response.

10 5. The Trustee sent a demand letter to the Debtor on December
11 30, 2013 requesting this information and has received no response. A
12 copy of the demand letter is attached hereto as Exhibit 1.

13 2. The Trustee now moves this Court for an order compelling
14 turnover of the contact information for the Debtor's mother, or, in
15 the alternative, the sum of \$7,000.00 which was paid to the Debtor's
16 mother in the 12 months prior to the Debtor filing bankruptcy

17 II.

18 LEGAL ARGUMENT

19
20 As set forth above, the Trustee directed the Debtor to turnover
21 the contact information for his mother. The Debtor has failed to
22 cooperate with the Trustee in the administration of the estate
23 pursuant to 11 U.S.C. §521 in that the Debtor has not turned over the
24 requested contact information to the estate.

25 Pursuant to 11 U.S.C. §521(a)(3), if a trustee is serving, it is
26 the duty of debtors to cooperate with the Trustee as necessary to
27 enable the trustee to perform the trustee's duties under this title.

28 §521 Debtor's duties

1 (a) The Debtor shall

2 (3) if a trustee is serving in the case or an auditor appointed
3 under section 586(f) of title 28, cooperate with the trustee as
4 necessary to enable the trustee to perform the trustee's duties under
5 this title;

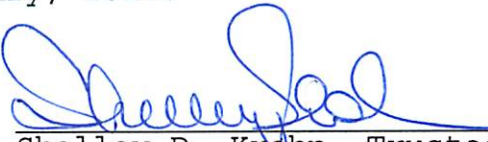
6 11 U.S.C. §541(a)(1) defines property of the estate as "all
7 legal or equitable interests of the debtor in property as of the
8 commencement of the case".

9 III.

10 CONCLUSION

11 Movant respectfully requests this Court enter an Order compelling
12 Debtor to turnover the contact information for the Debtor's mother,
13 or, in the alternative, the sum of \$7,000.00 which was paid to the
14 Debtor's mother in the 12 months prior to the Debtor filing bankruptcy
15 within ten (10) days from the entry of the order.

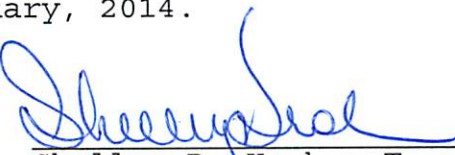
16 DATED this 28 day of January, 2014.

17 
18 _____
19 Shelley D. Krohn, Trustee

20 DECLARATION OF TRUSTEE

21 I declare under penalty of perjury, that the foregoing is true
22 and correct, to the best of my knowledge, information and belief.

23 DATED this 28 day of January, 2014.

24 
25 _____
26 Shelley D. Krohn, Trustee

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

Shelley D. Krohn

Bankruptcy Trustee

228 South 4th Street
Suite 300
Las Vegas, NV 89101

(702) 421-2210
Fax: (702) 366-1939
Shelley.TrusteeKrohn@7trustee.net

December 30, 2013

Via Regular Mail

Alan Dael Castaneda
4613 Baby Bird Lane
Las Vegas, Nevada 89115

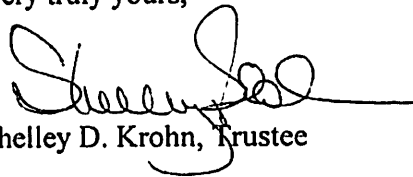
Re: Alan Dael Castaneda, Case #13-17326-BTB

Dear Mr. Castaneda,

As you are aware, I am the Chapter 7 Bankruptcy Trustee appointed in your case. At your §341 meeting of creditors which was conducted on October 9, 2013, you informed me that you were residing at a new address, which was not listed on your petition. I requested that you file a change of address with the bankruptcy court. To date, this has not been resolved. Additionally, at your §341 meeting of creditors on October 9, you testified that you paid \$7,000.00 to your mother in the 12 months preceding your bankruptcy filing. Per §547 and §548 of the Bankruptcy Code, this payment is considered a preference and/or fraudulent transfer and is property of the bankruptcy estate. As such, please provide contact information for your mother so that we can request repayment of these funds. If you prefer to repay the monies yourself, please contact my office and inform me of such. If you are unable to tender the full amount in one lump sum payment, we can set up payment arrangements.

I have attempted to contact your attorney multiple times to resolve these issues and have received no response. As such, please respond to this correspondence no later than 15 days from the date of this letter or January 15, 2014. Failure to respond to this letter will result in legal action. Please do not hesitate to contact my office if you have any further questions.

Very truly yours,



Shelley D. Krohn, Trustee

SDK:bw
CC: Jon R. Turner, Esq.

1
2
3
4
5
6
7
8 SHELLEY D. KROHN, Trustee
E-mail: Shelley.TrusteeKrohn@7trustee.net
9 228 South 4th Street, #300
Las Vegas, Nevada 89101
10 Telephone: (702) 421-2210
Facsimile (702) 366-1939
11

12
13 UNITED STATES BANKRUPTCY COURT

14 DISTRICT OF NEVADA

15 *****

16 In re:) CASE NO. BK-S-13-17326-BTB
17 ALAN DAEL CASTANEDA,) CHAPTER 7
18) Date: March 6, 2014
Debtor.) Time: 11:00 am
19)

20 ORDER GRANTING TRUSTEE'S MOTION TO COMPEL TURNOVER

21 Shelley D. Krohn, Trustee, filed a Motion to Compel Turnover of
22 contact information for the Debtor's mother, or, in the alternative,
23 the sum of \$7,000.00 which was paid to the Debtor's mother in the 12
24 months prior to the Debtor filing bankruptcy. ("Motion") in the above-
25 entitled case. The Motion having come on regularly for hearing on the
26 above date and time, before the United States Bankruptcy Court,
27 District of Nevada; Shelley D. Krohn, Trustee, appearing; the Court
28 having reviewed the motion, finding that service of the motion and

1 notice was proper, no opposition having been filed, good cause
2 appearing, therefore, it is hereby:

3 **ORDERED** that the Trustee's Motion to Compel Turnover is granted.
4 It is further

5 **ORDERED** that the Debtor shall turnover the contact information
6 for the Debtor's mother, or, in the alternative, the sum of \$7,000.00
7 which was paid to the Debtor's mother in the 12 months prior to the
8 Debtor filing bankruptcy to the Trustee within (10) days from the
9 entry of this order.

10 SUBMITTED BY:

11
12 _____
13 SHELLEY D. KROHN, TRUSTEE

14
15 **CERTIFICATION**

16 In accordance with LR 9021, counsel submitting this document certifies
as follows (check one):

17 ☐ The court has waived the requirement of approval under LR
18 9021(b)(1).

19 ☐ No party appeared at the hearing or filed an objection to the
motion.

20 ☐ I have delivered a copy of this proposed order to all counsel
21 who appeared at the hearing, any unrepresented parties who
22 appeared at the hearing, and each has approved or disapproved
the order, or failed to respond, as indicated below [list each
23 party and whether the party has approved, disapproved, or failed
to respond to the document]:

24 ☒ I certify that this is a case under Chapter 7 or 13, that I have
25 served a copy of this order with the motion pursuant to LR
26 9014(g), and that no party has objected to the form or content
of the order.

27
28 **IT IS SO ORDERED.**

#